

111TH CONGRESS
1ST SESSION

H. R. 2199

To amend the Occupational Safety and Health Act of 1970 to authorize the Secretary of Labor to prevent employee exposure to imminent dangers

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2009

Mr. BISHOP of New York (for himself, Ms. WOOLSEY, Mr. HARE, Mr. KUCINICH, and Mr. SABLAN) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Occupational Safety and Health Act of 1970 to authorize the Secretary of Labor to prevent employee exposure to imminent dangers.

1 Be it enacted by the Senate and House of Represent
2 tives of the United States of America in Congress assem

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the ``Protecting Workers
5 From Imminent Dangers Act of 2009``.

1 **SEC. 2. STREAMLINED PROCEDURES TO COUNTERACT IM-**
 2 **MINENT DANGERS.**

3 (a) PROCEDURES.—Section 13 of the Occupational
 4 Safety and Health Act of 1970 (29 U.S.C. 662) is amend
 5 ed—

6 (1) by striking subsections (a), (b), and (c) a
 7 inserting the following:

8 `` (a) (1) If the Secretary determines, on the basis
 9 an inspection or investigation under this Act, that a c
 10 tion or practice in a place of employment is such tha
 11 imminent danger to safety or health exists that could
 12 sonably be expected to cause death or serious physic
 13 harm or permanent impairment of the health or functiona
 14 capacity of employees if not corrected immediately or
 15 fore the imminence of such danger can be eliminated
 16 through the enforcement procedures otherwise provided b
 17 this Act, the Secretary shall inform the employer and
 18 affected employees and their representative of such im
 19 nent danger and shall request that the condition or pr
 20 tice be corrected immediately or that employees be imm
 21 diately removed from exposure to such danger.

22 `` (2) The Secretary shall not prevent the entry or c
 23 tinued activity of employees whose presence is necess
 24 to avoid, correct, or remove such imminent danger or
 25 maintain the capacity of a continuous process operati
 26 to resume normal operations without a complete cessati

1 of operations or, where a cessation of operations is
2 essary, to permit such to be accomplished in a safe
3 orderly manner.

4 “(3) If the employer refuses to comply with the
5 quest under paragraph (1), the Secretary shall imme
6 diately issue an order requiring the employer to cause
7 persons, except those employees referred to in paragra
8 (2), to be withdrawn from, and to be prohibited from
9 tering, such area until an authorized representative o
10 Secretary determines that such imminent danger and the
11 conditions or practices which caused such imminent dan
12 ger no longer exist. The issuance of an order under t
13 subsection shall not preclude the issuance of a cita
14 under section 9 or the proposing of a penalty under sec
15 17. The fact that an order under paragraph (3) has bee
16 issued shall be noted in any citation issued pursuant
17 section 9 with respect to the hazard involved.

18 “(4) Each finding made and order issued under thi
19 section shall be given promptly to the employer by the
20 son making such finding or order. All such findings a
21 orders shall be in writing, and shall be signed by the
22 son making them and shall contain a detailed descripti
23 of the conditions or practices which cause and consti
24 an imminent danger and a description of the area of t

1 place of employment from which persons must be with-
 2 drawn and prohibited from entering.

3 “(5) Any order issued pursuant to subsection (a) ma
 4 be modified or terminated by an authorized representati
 5 of the Secretary following consultation with the emplo
 6 and any representative of the affected employees. An
 7 order issued under subsection (a) shall remain in eff
 8 until vacated, modified, or terminated by the Secreta
 9 or modified or vacated by the Commission pursuant to
 10 subsection (d).’’; and

11 (2) by redesignating subsection (d) as sub-
 12 section (b) and after such subsection inserting t
 13 following:

14 “(c) No person shall discharge or in any manner di
 15 criminate against any employee because such employee
 16 has refused to perform a duty that has been identified
 17 the source of an imminent danger by any order issued
 18 under subsection (a). The right to refuse to perform s
 19 a duty shall be in addition to any other right to re
 20 to perform hazardous work that is afforded to employe
 21 by this Act, by standards or regulations issued pursu
 22 to this Act, by contract, or by other applicable law.

23 “(d)(1) Any employer notified of an order under su
 24 section (a) or any affected employees or representative
 25 affected employees notified of the issuance, modificat

1 or termination of such an order may apply to the Commis
2 sion within 30 days of such notification for reinstater
3 modification or vacation of such order. The Commissio
4 shall forthwith afford an opportunity for a hearing (i
5 cordance with section 554 of title 5, United States C
6 but without regard to subsection (a)(3) of such secti
7 and thereafter shall issue an order, based upon findi
8 of fact, vacating, affirming, modifying, or terminating
9 Secretary's order. The Commission may not grant tem-
10 porary relief from the issuance of any order under s
11 section (a).

12 “(2) The Commission shall take whatever action i
13 necessary to expedite proceedings under this subsecti

14 “(e) The Secretary may institute a civil action fo
15 lief, including a permanent or temporary injunction,
16 straining order, or any other appropriate order in the
17 trict court of the United States for the district in
18 a place of employment is located or in which the emplo
19 has his principal office, whenever such employer or
20 agent violates or fails or refuses to comply with any
21 or decision issued under this section.’’.

22 (b) PENALTIES.—Section 17 of such Act is amended
23 by redesignating subsections (h) through (l) as subsect
24 (i) through (m), respectively, and by inserting after
25 section (g) the following:

1 ``(h) Any employer who fails to remove all employees
2 from exposure to a hazard referenced in orders issued
3 under section 13(a) shall be assessed a civil penalty
4 less than \$10,000 and not more than \$50,000 for each
5 day during which an employee continues to be exposed to
6 the hazard, unless the Commission or the district court
7 determines the condition or practice is not of such nature
8 as to be covered by section 13(a).''.

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